

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

**Ciapessoni *et al.*, on behalf of themselves
and all others similarly situated,**

Plaintiffs,

v.

The United States of America,

Defendant.

*
*
*
*
*
*
*
*
*
*

Case No. 15-938C
Hon. Thomas C. Wheeler

**DECLARATION OF M. MILLER BAKER IN SUPPORT OF
PLAINTIFFS' MOTION TO CERTIFY CLASS ACTION**

M. Miller Baker, an attorney admitted before the Court of Federal Claims and serving as the attorney of record in this action on behalf of the Plaintiffs, hereby states and declares as follows:

1. I am one of the attorneys representing Plaintiffs in the above-referenced matter. I submit this declaration in support of Plaintiffs' Motion to Certify Class Action. Statements in this declaration are based upon personal knowledge or information reasonably available to me.

2. I am a partner in the law firm of McDermott Will & Emery, LLP, which is a full-service international law firm with more than 1,000 lawyers worldwide. I am co-head of McDermott's Appellate Practice Group, and focus my practice on appellate and constitutional litigation.

3. I have more than twenty years of experience in private practice litigating constitutional issues in federal and state courts, including cases involving Takings Clause issues. The following are representative cases from my practice that involved complex constitutional issues:

- *Horne v. Department of Agriculture*, 135 S. Ct. 2419 (2015) (*amicus curiae* brief for Sun-Maid Growers of California) (Takings Clause)
- *Pharmaceutical Care Management Association v. Gerhart*, No. 4:14-cv-00345-JAJ-HCA (S.D. Iowa Feb. 18, 2015) (Takings Clause)
- *United States ex rel. Bunk v. Gosselin World Wide Moving, N.V.*, 741 F.3d 390 (4th Cir. 2013) (*amicus curiae* brief for U.S. Chamber of Commerce) (separation of powers and Article III standing)
- *Stauffer v. Brooks Brothers, Inc.*, 619 F.3d 1321 (Fed. Cir. 2010) (*amicus curiae* brief for Ciba Vision Corporation) (separation of powers and Article III standing)
- *Harrington v. CIBA Vision Corporation* (No. 3:08-cv-00251-FDW-DCK) (W.D.N.C. July 21, 2010) (separation of powers and Article III standing)
- *McMahon v. Presidential Airways, Inc.*, 502 F.3d 1331 (11th Cir. 2007) (political question doctrine and derivative sovereign immunity)
- *Kessler v. Hevesi*, 45 A.D.3d 474, 846 N.Y.S.2d 56 (App. Div. 1st Dept. 2007) (Takings Clause)
- *Illinois Clean Energy Community Foundation v. Filan*, 392 F.3d 934 (7th Cir. 2004) (Takings Clause)
- *Biogonic Safety Brands, Inc. v. Ament*, 174 F. Supp. 2d 1168 (D. Colo. 2001) (First Amendment commercial speech)
- *Foster v. Love*, 522 U.S. 67 (1997) (Elections Clause preemption of state law)

4. My work in private practice has garnered external recognition. I have been recognized for my work in *Chambers USA*, *Benchmark Litigation*, the *Am Law Litigation Daily*, the *National Law Journal*, and *Super Lawyers* magazine

5. In addition to my work in private practice, I focused on constitutional issues while serving as an attorney-advisor at the U.S. Department of Justice's Office of Legal Policy (1986-1988) and as counsel to the Senate Judiciary Committee (1991-1993).

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: September 28, 2015

A handwritten signature in blue ink, appearing to read "M. Miller Baker", written over a horizontal line.

M. Miller Baker